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OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 09/683,523 : DECISION ON PETITION
Filed: January 13, 2002 :
Attorney Docket No. 22176.2 :

This is a decision on the petition, filed May 27, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen month publication country. Petitioner indicates that the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and,
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition lacks item (1) above. Petitioner has set forth two different dates (December 19, 2002 and January 10, 2003) as the filing date of the subsequently filed foreign or international application. The Office is unable to evaluate the petition on its merits without petitioner providing the correct filing date of the foreign or international application. This information must be provided with any renewed petition.

The petition fee of \$1,330.00 will be charged to Deposit Account No. 50-2233.

Further correspondence with respect to this matter should be addressed as follows and **to the Attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
 220 20th Street S.
 Customer Window, Mail Stop Petition
 Crystal Plaza Two, Lobby, Room 1B03
 Arlington, VA 22202

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions